

RECORDATION NO. 21650-C FILED

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SURFACE TRANSPORTATION BOARD

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ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

December 21, 2007

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of an Assignment and Assumption Agreement, dated as of December 21, 2007, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Lease previously filed with the Board under Recordation No. 21650.

The names and addresses of the parties to the enclosed document are:

Seller/Assignor: Babcock & Brown Rail Funding LLC
885 Second Avenue, 49th Floor
New York, NY 10017

Buyer/Assignee: BBRX Five LLC
885 Second Avenue 49th Floor
New York, NY 10017

Mr. Vernon A. Williams
December 21, 2007
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A description of the railroad equipment covered by the enclosed document is:

119 railcars within the series CEFX 40355 - CEFX 40592 as more particularly set forth in the attachment to the document.

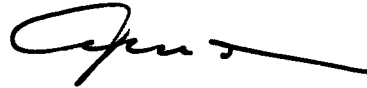
A short summary of the document to appear in the index is:

Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$35.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alvord', with a long horizontal flourish extending to the right.

Robert W. Alvord

RWA/sem
Enclosures

DEC 21 '07

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SURFACE TRANSPORTATION BOARD

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement dated as of December 21, 2007 (this "Agreement"), is between Babcock & Brown Rail Funding LLC, a Delaware limited liability company (the "Seller"), and BBRX Five LLC, a Delaware limited liability company (the "Buyer"). Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Purchase Agreement (defined below), which also contains rules of usage that apply to terms defined therein and herein.

RECITALS:

A. The Seller is the owner of the railcars described on Exhibit A hereto (the "Equipment").

B. Concurrently herewith, the Seller and the Buyer have executed and delivered the Purchase Agreement dated as of the date hereof (as amended, modified or supplemented, the "Purchase Agreement") in respect of the Equipment.

C. The Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer on the date hereof.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows.

1. Assignment. Effective as to each item of Equipment from and after the date hereof, the Seller assigns, transfers and conveys to the Buyer all of the Seller's rights, title and interest, except as reserved under Section 2.1 of the Purchase Agreement, in and to such item of Equipment and assigns to the Buyer all of the Seller's rights and obligations, except to the extent constituting Existing Obligations, under each of the agreements listed on Exhibit A hereto as they relate to the applicable Equipment and all of the other agreements and documents listed in Schedule 1 to the Purchase Agreement (collectively, the "Assigned Operative Agreements").

Notwithstanding the foregoing, each of the Seller and the Buyer shall continue to be entitled to the benefit of any applicable rights to indemnification for tax and other matters which arose or may arise from or be related to any event or circumstance occurring or in existence prior to the date hereof, as specified in the Purchase Agreement.

2. Acceptance of Assignment; Effect of Assignment. The Buyer accepts the assignment contained in Section 1 and agrees to be bound to the same extent as the Seller by all the terms of the Assigned Operative Agreements. Effective on and after the date hereof, after giving effect to the transaction described herein, the Buyer shall be deemed to stand in the place of the Seller for all purposes under the applicable Assigned Operative Agreements and each reference in the Assigned Operative Agreements to the Seller shall be deemed to mean the Buyer.

3. Amendments. No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

4. Notices. All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.5 of the Purchase Agreement.

5. Headings. The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

6. Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

7. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the conflict of law rules thereof, other than Section 5-1401 of the New York General Obligations Law.

8. Recordation. The Buyer and the Seller agree to record this Agreement with the Surface Transportation Board and with the Registrar General of Canada, if applicable, to evidence the assignment by the Seller to the Buyer of the Seller's rights under the Lease, if and only if the Lease has been recorded with the Surface Transportation Board and/or the Registrar General of Canada, as the case may be.


9. Further Assurances. Each of the parties hereto covenants and agrees that, at any time and from time to time after the date hereof, at the request and expense of the other party hereto, it will promptly and duly execute and deliver, or cause to be executed and delivered, to the requesting party all such further instruments and take all such further action as may be reasonably requested by such party to more effectively sell, transfer, assign, and convey each item of Equipment.

10. Binding Agreement. This Agreement shall be binding upon the Seller and the Buyer, their respective successors and permitted assigns, for the use and purposes set forth and referred to herein, effective as of the date hereof.

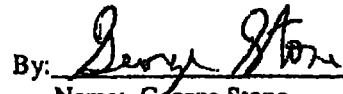
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed by the parties hereto as of the date first above written.

BABCOCK & BROWN RAIL FUNDING LLC,
as Seller

By: 
Name: Larry Littlefield
Title: Vice President

BBRX FIVE LLC, as Buyer

By: 
Name: George Stone
Title: Vice President

State of New York)
)
County of New York)

On this, the 6th day of December, 2007, before me, a Notary Public in and for said County and State, personally appeared Larry Littlefield, the Vice President of Babcock & Brown Rail Funding LLC, who acknowledged himself himself to be a duly authorized officer of Babcock & Brown Rail Funding LLC, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Clementina Capasso
Notary Public

My Commission Expires: CLEMENTINA CAPASSO
~~NOTARY PUBLIC, STATE OF NEW YORK~~
No. 01CA8120806
Residing in: QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES DEC 27, 2008

State of New York)

County of New York)

On this, the 6th day of December, 2007, before me, a Notary Public in and for said County and State, personally appeared George Stone, the Vice President of BBRX Five LLC, who acknowledged himself to be a duly authorized officer of BBRX Five LLC, and that, as such officer, being authorized to do so he she executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Name: Clementina Capasso
Notary Public

My Commission Expires: **CLEMENTINA CAPASSO**
NOTARY PUBLIC, STATE OF NEW YORK
No. 01CAG120806
Residing in: **QUALIFIED IN NEW YORK COUNTY**
MY COMMISSION EXPIRES DEC 27, 2008

Exhibit A
(to Assignment
and Assumption Agreement)

EQUIPMENT AND LEASES

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
1	CSX Transportation , Inc.	200	2007 by National Steel Car Limited	42' Single Covered Coil Cars, 286,000 GRL, AAR Car Type Code E241	CSXT 494500 – CSXT 494699, inclusive	None

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
2	Detroit Edison	226	1998 by Johnstown America	4480 CF Aluminum Rotary dump coal gondolas, 286,000 GRL, AAR Car Type Code J311	CEFX 40115, 40122, 40126, 40127, 40132, 40138, 40141, 40143, 40146-40150, inclusive, 40153, 40155-40157, inclusive, 40164, 40165, 40167, 40178, 40181-40183, inclusive, 40186-40188, inclusive, 40190-40193, inclusive, 40196, 40199, 40201, 40204-40206, inclusive, 40208, 40219, 40223-40225, inclusive, 40228, 40229, 40234, 40236, 40238, 40239, 40243, 40245, 40246, 40248, 40249, 40253-40257, inclusive, 40259-40264, inclusive 40266, 40268, 40273, 40276, 40278, 40279, 40282-40284, inclusive 40286, 40287, 40293, 40295, 40298, 40299, 40302, 40306-40308, inclusive, 40311, 40317, 40318, 40320-40324, inclusive, 40326, 40327, 40329, 40331-40333, inclusive, 40335, 40337-40339, inclusive, 40341, 40342, 40347, 40348, 40352, 40353, 40355-40358, inclusive, 40360, 40361, 40364-40366, inclusive, 40368-40373, inclusive, 40375, 40376, 40378, 40380, 40381, 40386-40389, inclusive, 40392, 40393, 40395-40397, inclusive, 40399, 40400, 40402, 40404-40407, 40410, 40413, 40415, 40418, 40419, 40421, 40427-40429, inclusive, 40432, 40437, 40439-40441, inclusive, 40445-40447, inclusive, 40449, 40454, 40458-40460, inclusive, 40464, 40466-40468, inclusive, 40471, 40472, 40483, 40484, 40490, 40491, 40493, 40495, 40501, 40502, 40506, 40509-40511, inclusive, 40513-40515, inclusive, 40518, 40519, 40521, 40524, 40525, 40527, 40528, 40530, 40533-40535, inclusive, 40539, 40541-40543, inclusive, 40545, 40546, 40548-40550, inclusive, 40553, 40559, 40560, 40563-40565, inclusive, 40567, 40568, 40573, 40575, 40576, 40579, 40580, 40584, and 40587-40592, inclusive.	None

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
3	Entergy Gulf States	242	2006 by FreightCar America, Inc.	4520 CF Aluminum body BethGon II Coal Porter railcars, 286,000 lbs. GRL, AAR car type code J311	BNBX 120110-120126, inclusive; 120128-120132, inclusive; 120135-120239, inclusive; 120241-120265, inclusive; 120267, 120268, 120279-120283, inclusive; 120287-120292, inclusive; 120294-120313, inclusive; 120315-120327, inclusive; 120331-120374, inclusive.	None
4	Greenbrier Leasing Company LLC	310	2006 by Trinity North American Freight Car, Inc.	5161 CF through-sill triple hopper covered grain railcars, 286,000 GRL, AAR Car Type Code C114	AOK 65500-65809, inclusive	None
5	Kansas City Southern Railway Company	100	2007 by Gunderson	Five Unit Articulated Double-Stack Container Cars with 40-foot wells ("Maxi-Stack I" cars), AAR Car Type Code S160	AOK 58140-58239, inclusive	None

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
6	Knauf Insulation GNBH	25	2006 by Trinity North American Freight Car, Inc	3281 CF Cement Covered Hoppers, 286,000 GRL, with three (3) 30" circular loading hatches and two (2) Miner MKE 10183K gravity discharge outlets with gaskets, AAR Car Type Code C112	GBRX 65425 - 65449, inclusive.	None
7	Lehigh Cement	20	2006 by Trinity North American Freight Car, Inc	3230 CF Pressure differential Covered Hoppers. 286,000 GRL, AAR Car Type Code C612	GBRX 65030 - 65049, inclusive.	None
8	Phoenix Cement	26	3 - 1999, 22 - 2000, 1 - 2001 by Thrall	3230 CF PD Covered Hoppers, 286,000 GRL, AAR Car Type Code C612	CEFX 95072, 95080, 95084, 95397, 95432, 95448 - 95450 inclusive, 95469, 95475, 95476, 95485-95495 inclusive, 95497, 95498, 95500, and 95716	None
9	Riverside Cement Company	20	2006 by Trinity North American Freight Car, Inc	3230 CF Pressure Differential Covered Hoppers. 286,000 GRL, AAR Car Type Code C612	GBRX 65000-65019, inclusive.	None

Lease #	Lessee	# of Units	Year Built/ Manufacturer	Description	Reporting Marks	Casualty Marks
10	Soo Line	25	2006 by Trinity North American Freight Car, Inc	112 ton, 42-ft Coil Steel railcars with continuous trough coil covers and movable crossbars, AAR Car Type Code E241	AOK 34375 - 34399, inclusive.	None
11	Superior Wells Services	20	2006 by Trinity North American Freight Car, Inc	3281 CF Covered Hoppers, 286,000 GRL, AAR Car Type Code C112	BNBX 120750-120769, inclusive.	None
12	Tennessee Valley Authority	125	2006 by FreightCar America, Inc	4200 CF Aluminum body Rotary AutoFlood III™ open top coal hoppers, 286,000 lbs. GRL, AAR Car Type Code K341	TVAX 26000-26124, inclusive.	None
13	Tennessee Valley Authority	125	2006 by FreightCar America, Inc	4200 CF Aluminum body Rotary AutoFlood III™ open top coal hoppers, 286,000 lbs. GRL, AAR Car Type Code K341	TVAX 26125-26249, inclusive.	None

1. Master Net Railcar Lease dated as of October 26, 2006, by and between Babcock & Brown Rail Funding LLC and CSX Transportation, Inc.

Schedule No. 01 to Master Net Railcar Lease dated as of November 16, 2006, by and between Babcock & Brown Rail Funding LLC and CSX Transportation, Inc.

2. Master Net Railcar Lease made as of September 1, 1998, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and The Detroit Edison Company,.

Schedule No. 02 to Master Net Railcar Lease dated as of September 1, 1998, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and The Detroit Edison Company.

Extension No. 1 to Schedule No. 02 to Master Railcar Lease Agreement entered into as of August 25, 1999 and effective as of September 1, 1999, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and The Detroit Edison Company.

Extension to Railcar Equipment Lease entered into as of April 30, 2001 and effective as of April 1, 2001, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and The Detroit Edison Company.

Extension to Lease Schedule No. 2 entered into as of November 24, 2003 and effective as of April 1, 2003, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and The Detroit Edison Company.

Extension to Lease Schedule No. 2 entered into as of January 15, 2004 and effective as of April 1, 2004, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and The Detroit Edison Company.

Extension to Lease Schedule No. 2 entered into as of May 1, 2006 and effective as of April 1, 2006, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and The Detroit Edison Company.

3. Master Full Service Railcar Lease dated as of September 1, 2007 between Babcock & Brown Rail Funding LLC and Entergy Gulf States, Inc.

Schedule No. 01 dated as of September 1, 2007 to Master Full Service Railcar Lease dated as of September 1, 2007 between Babcock & Brown Rail Funding LLC and Entergy Gulf States, Inc.

4. Master Net Railcar Lease dated as of December 10, 2007 and effective as of December 1, 2007, between Babcock & Brown Rail Funding LLC and Greenbrier Leasing Company LLC.

Schedule No. 1 to Master Net Railcar Lease dated as of December 10, 2007 and effective as of December 1, 2007 between Babcock & Brown Rail Funding LLC and Greenbrier Leasing Company LLC.

5. Car Hire Lease Agreement dated as of May 15, 2007, and effective as of February 1, 2007, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and The Kansas City Southern Railway Company.

Rider No. 1 to Car Hire Lease Agreement entered into as of May 15, 2007, and effective February 1, 2007, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and The Kansas City Southern Railway Company.

6. Master Full Service Railcar Lease dated as of May 1, 2005, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Knauf Insulation GmbH.

Schedule No. 02 to Master Full Service Railcar Lease dated as of December 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Knauf Insulation GmbH.

Amendment No. 1 to Schedule No. 02 dated as of January 17, 2007, and effective as of December 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Knauf Insulation GmbH.

7. Master Net Railcar Lease dated as of November 17, 2006, and effective for purposes of Schedule No. 3 as of July 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Lehigh Cement Company.

Schedule No. 3 to Master Net Railcar Lease dated as of January 15, 2007, and effective as of July 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Lehigh Cement Company.

8. Master Railcar Lease made as of June 8, 2000, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company.

Amendment No. 01 to Full Service Master Railcar Lease entered into as of June 8, 2000 and effective as of September 7, 2007, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Phoenix Cement Company, a division of the Salt River Pima-Maricopa Indian Community.

Schedule No. 07 to Master Railcar Lease made as of May 30, 2001, by and between Babcock & Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company.

Extension to Lease Schedule No. 07 entered into as of February 8, 2005 and effective as of July 1, 2005, by and between Brown Rail Funding LLC (as assignee of The CIT Group/Equipment Financing, Inc.) and Salt River Pima-Maricopa Indian Community d/b/a Phoenix Cement Company.

9. Master Full Service Railcar Lease dated as of February 16, 2007 and effective as of June 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Riverside Cement Company.

Schedule No. 1 to Master Full Service Railcar Lease dated as of February 16, 2007 and effective as of June 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Riverside Cement Company.

Amendment and Guaranty dated as of December 18, 2007 to that Master Full Service

10. Lease Agreement made as of June 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Soo Line Railroad Company.

Schedule No. 1 made as of June 1, 2006, between Babcock & Brown Rail Funding LLC (as assignee of Greenbrier Leasing Company LLC) and Soo Line Railroad Company.

11. Master Net Railcar Lease dated as of April 24, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc.

Schedule No. 04 to Master Net Railcar Lease dated as of December 14, 2006, by and between Babcock & Brown Rail Funding LLC and Superior Well Services, Inc.

12. Master Net Railcar Lease dated as of August 10, 2005, by and between Babcock & Brown Rail Funding LLC and Tennessee Valley Authority.

Schedule No. 06 to Master Net Railcar Lease dated as of July 12, 2006, by and between Babcock & Brown Rail Funding LLC and Tennessee Valley Authority.

13. Master Net Railcar Lease dated as of August 10, 2005, by and between Babcock & Brown Rail Funding LLC and Tennessee Valley Authority.

Schedule No. 07 to Master Net Railcar Lease dated as of July 12, 2006, by and between Babcock & Brown Rail Funding LLC and Tennessee Valley Authority.

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 12/21/07



Robert W. Alvord